D.B. CIVIL SPECIAL APPEAL(W)NO.186/2007

State of Rajasthan
Vs.
Sube Singh & Ors.

Date of Order :: 25-04-2007

HON'BLE THE CHIEF JUSTICE SHRI S.N.JHA
HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ

Shri Bharat Vyas, AAG for the State.

This special appeal is directed against the order of the learned Single Judge dismissing the writ petition of the appellant-State. The State had filed the writ petition challenging the decision of the State Transport Appellate Tribunal dated 27.1.2006 in Appeal no.56/2006 by which modifying the condition that in stead of two return trips as directed by the Regional Transport Authority, Alwar, the appellant, Sube Singh, was permitted to operate only one trip on the route. The route in question is Bansoor to Behror via Partaka.

The case of the State is that in terms of Section 72(2)(iii) of the Motor Vehicles Act 1988, the Regional Transport Authority while granting stage carriage permit is competent to attach conditions in the matter of minimum and maximum number of daily trips to be provided in relation to any route or area generally. In terms of Section 214(3) of the Act, the order made by the competent authority can not be reversed or altered on

appeal or revision except where error, omission or irregularity in the proceedings has occasioned failure of justice. The case of the State further is that having regard to the nature of the service which is intended to cater to the interest of passengers at large, the condition that vehicle will make two trips was rightly imposed by the Regional Transport Authority and the State Transport Appellate Authority committed error in interfering with the same.

The impugned order was passed in appeal preferred by Sube Singh. He inter alia contended that he had applied for grant of permit for one return trip and the Regional Transport Authority was not correct in imposing the condition that the vehicle must make two trips.

The State was not party to the proceedings before the Appellate Tribunal. We are of the view that it would be appropriate if the authority is asked to consider the grievance of the State at the first instance. The order was passed virtually ex parte (the only respondent was the Regional Transport Authority, Alwar region), in the interest of justice to ask the Appellate Authority to re-consider the matter.

We accordingly without interfering with order of the State Transport Appellate Authority, for the present, permit the State to apply for modification of

the order. It goes without saying that in case the application does not succeed, it will be open to the State to challenge the order before this Court.

The appeal thus stands disposed of.

[MOHAMMAD RAFIQ],J. **[S.N.JHA],CJ.**

Praveen